IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE ANTONY DOMINIC

TUESDAY, THE 14TH AUGUST 2007 / 23RD SRAVANA 1929

WP(C).No. 8539 of 2005(N)

PETITIONER:

C.S.SANTHOSH KUMAR,
ASSISTANT MOTOR VEHICLE INSPECTOR,
REGIONAL TRANSPORT OFFICE, KOLLAM, RESIDING AT
BIJU COTTAGE, VAZHUTHOOR, NEYYATTINKARA,
THIRUVANANTHAPURAM.

BY ADV. SRI.N.SUGATHAN
SRI.A.V.RAMAKRISHNA PANICKER
SMT.R.SEEMA
SMT.VARSHA BHASKAR

RESPONDENTS:
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1. **THE KERALA PUBLIC SERVICE COMMISSION,**
REPRESENTED BY ITS SECRETARY, PATTOM,
THIRUVANANTHAPURAM.

2. **THE TRANSPORT COMMISSIONER,**
THIRUVANANTHAPURAM.

3. **K.K.RAJEEV,**
KOOTTUNGAL HOUSE, KUMBALANGHI P.O., KOCHI-682 007.

4. **S.BIJU,**
PADMAVILASAM, KOTTAPURAM, PARAVUR,KOLLAM-691 301.

5. **K.R.SURESH,**
KAVUNGAL HOUSE, EDAVANAKKAD P.O.,ERNAKULAM-682 502

6. **K.SHIBU,**
SREE BHAVAN, KEZHUVAMKULAM P.O., CHERPUNKAL (VIA),
KOTTAYAM.

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7. B.SHAFIQ,
VARICKAPLAVUNILKUNNATHIL, CHURILIKODE P.O.,
PATHANAMTHITTA.

8. K.P.SREEDHARAN,
KUNHIPURAYIL HOUSE, KOZHUMMAL P.O.,
KARIVELLUR (VIA), KANNUR-670 522.

BY ADV. SRI.P.C.SASIDHARAN, SC, KPSC
GOVERNMENT PLEADER
SRI.BABU JOSEPH KURUVATHAZHA
SRI.K.I.SAGEER

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 14/08/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

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APPENDIX

PETITIONER'S EXHIBITS

EXT.P1:- RELEVANT EXTRACT RANKED LIST FOR THE POST OF AMVI IN MOTOR VEHICLES DEPARTMENT PUBLISHED IN PSC BULLETIN.

EXT.P2:- COPY OF THE JUDGMENT DT. 7.10.99 IN OP. NO. 14346/97.

EXT.P3:- COPY OF THE ORDER NO.A3-7107/TC/99 DT. 22.5.99 OF THE 2ND RESPONDENT.

EXT.P4:- RELEVANT EXTRACT OF ORDER NO.A3-16016/TC/99(1) DT. 12.11.99 OF THE 2ND RESPONDENT.

EXT.P5:- COPY OF THE PROCEEDINGS NO.A3-13428/TC/2000 DT. 29.10.02 OF THE 2ND RESPONDENT.

EXT.P5(a):- RELEVANT EXTRACT OF THE FINAL SENIORITY LIST OF AMVIS. FROM 1.1.95.

EXT.P6:- COPY OF THE JUDGMENT DT. 23.6.04 IN OP. 26904/2002.

EXT.P7:- COPY OF THE ORDER NO.A3/36083/TC/02 DT.2.7.04 OF THE 2ND RESPONDENT.

EXT.P8:- COPY OF THE REPRESENTATION DT. 17.9.04 SUBMITTED BEFORE THE 1ST RESPONDENT

EXT.P9:- COPY OF THE LETTER NO.RIC(2) 4763/98/GW DT. 2.12.04 OF THE 1ST RESPONDENT.

/TRUE COPY/

P.S. TO JUDGE

tss

Antony Dominic, J.

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W.P(C).No.8539 of 2005

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Dated this the 14th day of August, 2007.

JUDGMENT

Petitioner's name is included in the rank list prepared by the first respondent for appointment to the post of Assistant Motor Vehicle Inspector (A.M.V.I.) He belongs to Nadar Community and entitled to get advice in the second turn available for Nadar Community. It is stated that the first turn for the Nadar Community was kept vacant on account of an interim order passed by this Court in O.P.No.14346 of 1997 filed by one Joymon. Eventually, the Writ Petition was dismissed and consequently one Thankaraj, Sl.No.74, who was appointed in the second turn for the Nadar Community represented for revising his position in the list by assigning him first reservation slot for Nadar Community. He had filed a Writ Petition for the said relief before this Court as O.P.No.26904 of 1999, which was disposed of by Ext.P6 judgment directing that it is only in the

interest of justice that the petitioner therein is given the benefit of date of advice as if there is no intrusion of S.R. Joymon. On this basis, second respondent issued Ext.P7 according seniority to Thankaraj in the final seniority list of A.M.V.Is. between Sl.No.49 and Sl.No.50 vide No.49A as against his original position at Sl.No.74.

2. Following this, the petitioner represented that he should be given seniority which was originally assigned to Thankaraj at Sl.No.74. This was rejected by Ext.P9. It is seeking to quash Ext.P9 and for directing the second respondent to assign the petitioner seniority between Sl.No.73 N.Vinaykumar and Sl.No.75, K.K. Rajeev and adorn in the position originally assigned to Thankaraj in Ext.P5 seniority list of A.M.V.Is and to grant consequential reliefs that this Writ Petition has been filed.

3. As already stated on the dismissal of O.P.No.14346 of 1997 filed by Joymon, Thankaraj was assigned rank at Sl.No.49A in the seniority list as against his original ranking at Sl.No.74 Thankaraj having been shifted from Sl.No.74, and petitioner being the next Nadar Community candidate, is entitled to be put at the place occupied by Thankaraj adopting the very same

reasons stated in Ext.P6 judgment. Consequently the rejection of the petitioner's claim by Ext.P9 is illegal.

4. Therefore, I quash Ext.P9 and declare that the petitioner should be assigned seniority in between Sl.No.73 and Sl.No.75, in Ext.P5 final seniority list of A.M.V.Is. The second respondent shall pass consequential orders similar to Ext.P7. However, I clarify that the petitioner will not be entitled to any consequential benefits with retrospective effect as claimed by him. This benefit of the petitioner will be worked out only with prospective effect.

Writ Petition is disposed of as above.

Antony Dominic,
Judge.

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